Magan Medical Clinic, Inc. *and* Office and Professional Employees, International Union, Local 30 and Magan Medical Clinic Grievance Committee. Case 21–CA–28814

September 12, 1994

DECISION AND ORDER

BY MEMBERS STEPHENS, DEVANEY, AND COHEN

The primary issues in this case[1] are whether the judge erred in finding that the Respondent violated Section 8(a)(2) by interfering with the formation and administration of the Magan Medical Clinic Grievance Committee (the Committee)[2] and by dismissing the allegations that the Respondent warned and terminated employee Wallin in violation of Section 8(a)(3). The case also presents the issues of whether the judge erred by finding that the Respondent violated Section 8(a)(1) by unlawfully interrogating employees and by announcing an overly broad no-solicitation rule.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings,[3] findings, and conclusions[4] and to adopt the recommended Order.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Magan Medical Clinic, Inc., Covina, California, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

[1] On April 6, 1993, Administrative Law Judge Jay R. Pollack issued the attached decision. The General Counsel and the Respondent filed exceptions and supporting briefs. The General Counsel and the Respondent also filed answering briefs.

[2] We note that no exceptions were filed with respect to the judge's dismissal of the allegation that the Respondent dominated the formation of the Committee.

In adopting the judge's finding that the Respondent interfered with the formation of the Magan Medical Clinic Grievance Committee and the recommended Order that the Respondent withdraw recognition from the Committee, Member Devaney notes that, in the course of discouraging union supporter Wallin from unionizing the Respondent's employees, Clifford, the Respondent's administrator, stated that he wanted to start a grievance committee and that Wallin could be in charge of it and could pick the employees on the committee. The employees elected the committee representatives only because Wallin told Clifford that such a method was preferable. Further, although the grievance committee appeared to free itself at least partially from the direct control of the Respondent during the course of its operations, the Respondent formulated the grievance committee scheme to frustrate employees' attempts to determine whether they wanted a bargaining representative and bargained with the Committee over grievances numerous times. Thus, the Respondent accorded tacit recognition to a representative not freely chosen by a majority of employees and founded, in part, to frustrate employees' efforts to choose a representative. See *Electromation, Inc*., 309 NLRB 990, 1003 (1992) (Member Devaney concurring). Member Devaney finds this case distinguishable from *John Ascuaga's Nugget*, 230 NLRB 275 (1977), and *Mercy-Memorial Hospital*, 231 NLRB 1108 (1977), in which the Board found that committees of employees set up to resolve employee grievances were not statutory labor organizations because they performed the managerial function of deciding grievances. Here, by contrast, the evidence indicates that the employee representatives on the Committee did not decide employee grievances but bargained with the Respondent over them.

Member Cohen finds it unnecessary to pass on the judge's conclusion that the Respondent interfered with the *administration* of the Committee. Given the extent of interference with the formation of the Committee, Member Cohen finds that this violation is sufficient to support the remedial order.

[3] The Respondent appears to have excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

[4] In connection with its defense under *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), the Respondent argued that it had previously issued two written warnings to Wallin based on her harassment of employees. The Respondent contends that it discharged Wallin after a third incident of harassment. In response, the General Counsel argued that the alleged incidents of ''harassment'' were in fact Sec. 7 activities, and thus the warnings and the discharge were unlawful. We do not agree with the General Counsel. Two of the incidents had nothing whatever to do with Sec. 7 activity. In a third incident, Wallin sought to induce employee Contreras to support her in her sexual harassment claim against the Respondent. Contreras replied that she did not believe that the conduct occurred as Wallin claimed, and that she (Contreras) would not ''lie'' on behalf of Wallin. Despite this, Wallin repeatedly tried to get Contreras to support Wallin's version, and said that Contreras' refusal to do so was a betrayal of friendship. In these circumstances, we do not believe that Wallin's continued efforts vis-a-vis Contreras were protected by Sec. 7 of the Act.

Ami Silverman, Esq., for the General Counsel.
John David Pereira, Esq., of Santa Ana, California, for the Respondent.
Kathleen Simmons, Business Rep., of La Mesa, California, for the Charging Party.

DECISION

STATEMENT OF THE CASE

JAY R. POLLACK, Administrative Law Judge. I heard this case in trial at Los Angeles, California, on February 2 and 3, 1993. On July 15, 1992, Office and Professional Employees, International Union, Local 30 (the Union) filed the original charge in Case 21–CA–28814 alleging that Magan Medical Clinic, Inc. (Respondent) committed certain violations of Section 8(a)(3) and (1) of the National Labor Relations Act (the Act). On August 26, the Union filed an amended charge alleging that Respondent had violated Section 8(a)(1), (2), and (3) of the Act. The Regional Director for Region 21 of the National Labor Relations Board issued a complaint and notice of hearing against Respondent on September 16, 1992. The complaint alleges that Respondent unlawfully dominated and assisted the Magan Medical Clinic Grievance Committee

(the Employee Forum Committee or the Forum).[1] Further the complaint alleges that Respondent unlawfully discharged Lara Wallin, an employee, for her union activities on behalf of the Union and unlawfully interrogated and threatened Wallin because of her protected concerted activities. Respondent filed a timely answer to the complaint, denying all wrongdoing.

All parties have been afforded full opportunity to appear, to introduce relevant evidence, to examine and cross-examine witnesses, and to file briefs. Upon the entire record, from my observation of the demeanor of the witnesses, and having considered the posthearing briefs of the parties, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent is a California corporation with an office and principal place of business located in Covina, California, where it is engaged in operating an outpatient clinic. During the past 12 months, Respondent received gross revenues in excess of $1 million. During the same period of time, Respondent received from the performance of services directly to customers located outside the State of California revenues of approximately $20,000. Accordingly, Respondent admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

The Union represents office workers employed by various other unions and by certain health care facilities. Employees belong to and participate in the Union. One of its purposes is to engage in collective bargaining and it has numerous collective-bargaining agreements. Accordingly, I find that the Union has been a labor organization within the meaning of Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. *The Facts*

Lara Wallin was an office worker with Respondent for 6 years. In February 1992, Wallin spoke to Kathleen Simmons of the Union and obtained union authorization cards. Beginning in late February, Wallin distributed the authorization cards to other office workers. Wallin obtained the signatures of 20–30 employees.

On February 28, 1992, Garrett Clifford, Respondent's administrator, called Wallin into his office for a conversation. Wallin testified that Clifford asked her if she was unhappy. Wallin answered that she was unhappy and listed treatment by supervisors, low morale, and concerns about wages. According to Wallin, Clifford said ''I heard you are bringing in the Union.'' After Wallin answered that she was, Clifford asked her ''why.'' Wallin stated that she was concerned about pay, treatment by supervisors, job security, and that there was no recourse against unjust action by supervisors. Clifford said it was stupid to bring in a union and that he couldn't understand why such a small company needed a union. Clifford told Wallin that she could not pass out union cards or engage in union activity while on the clock or while he was paying her. Clifford told Wallin that an employee had complained about harassment by Wallin in soliciting for the Union. Wallin asked who had complained but Clifford would not tell her the name. Wallin denied harassing any employee and Clifford told her that any further incident of harassment would result in her termination.

According to Clifford he had been told that Wallin, who works on the second floor, was harassing an employee in the basement. Evidently, the employee had complained to her supervisor. While Wallin was on her break, the employee being solicited was on duty. Clifford told Wallin not to harass employees any further and that if she did so, he would have to take action. In discussing employee concerns, Wallin suggested a committee of employees to hear and act upon grievances. Thereafter, Clifford wrote a memo to Wallin's personnel file entitled written warning. However, Clifford did not give Wallin a copy or tell her of the written warning.

Wallin testified that a few days later Clifford again called her to his office. According to Wallin, Clifford asked why she was trying to bring in the Union. Wallin said the employees had no job protection and that certain supervisors had been unfair. Clifford answered that he would back up a supervisor and that he could always replace an employee. Clifford told Wallin not to intimidate employees.

According to Wallin, a third meeting was held on April 7. However, the record establishes that the meeting was held on March 4. Clifford asked Wallin why a union was needed at such a small facility. Wallin answered that it would be worth getting a union in order to get higher pay. Clifford told Wallin that he wanted to start a grievance committee and that she could be in charge of the committee. Wallin told Clifford that it would be better if the employees voted for the committee members. Clifford said there could be five members and that Wallin could pick them. Wallin and Clifford agreed that an election would be held.

On March 5, a notice was sent to employees announcing that an election would be held for the employee forum committee. On March 12, an election was held and employees voted for representatives to be on the committee. Approximately 40 employees voted.

Clifford directed a secretary to write the Forum's rules and procedures. The express purpose of the Forum was ''to provide a fair and orderly procedure for airing employee grievances involving wages, hours and terms and conditions of employment.'' At the first meeting of the Forum, held in Clifford's office, the employees went over the rules and procedures. Thereafter, the employees issued their own guidelines and procedures. Clifford instructed the Forum that the committee would be governed by the employees and that the supervisors and administration would not be involved.

A second meeting of the Forum was also held in Clifford's office. However, Clifford did not participate in this meeting. He told the employees that it was their committee and that he could have nothing to do with it. At this meeting the Forum finalized its rules and procedures. These rules provided for grievances to be filed with the Forum and that after review by the committee, the presentation of recommendations to Clifford. The revised grievance procedures stated that the procedures were produced solely by the Forum. Thereafter, the Forum did not hold its meetings in Clifford's office. Rather, it held meetings in Respondent's computer training room. The Forum initially held monthly meetings but later held meetings only if there were grievances to dis-

[1] The Forum was served with copies of the pleadings but filed no papers and made no appearance in the case.

cuss. On certain occasions it was able to obtain favorable action on grievances from Clifford.

On January 31 and February 1, 1992, Wallin and the other employees in the medicare department received verbal warnings from Supervisor Shirley Brown. The first of these warnings concerned a ''verbal assault'' on a coworker. The second warning concerned complaints from patients regarding telephone manners. The General Counsel does not allege that these first two warnings were discriminatory. However, the General Counsel alleges that three subsequent warnings were motivated by Wallin's organizing activities. On or about March 25, Wallin gave some of her files to employee Jeanette Martinez for filing. Brown questioned Martinez as to why she was doing someone else's work. Martinez began to cry and answered that Wallin had ordered her to do the work. Brown gave Wallin a written warning citing abuse of a coworker but Wallin refused to sign the warning slip.

On March 30, 1992, Clifford distributed the Magan Harassment Policy to all employees. Clifford testified that he issued the policy in response to Wallin's allegation that she had been sexually harassed by a doctor. The policy prohibits ''physical, verbal or visual harassment and sexual harassment.''

On April 1, Cynthia Contreras, an employee, complained to Clifford that Wallin was harassing her in order to coerce Contraras to testify on behalf of Wallin's sexual harassment claim. Clifford prepared a written warning but did not give the warning to Wallin until April 7. On June 9, employee Hazel Pope complained to Brown, her supervisor, that Wallin had been angry at having to answer Brown's telephone. Pope reported that Wallin had upset her by stating that Wallin would know if Pope told anybody about the incident. Brown reported these events to Clifford and told Clifford that Pope, an elderly woman, was very upset. On June 15, Clifford gave Wallin a written statement describing the incident with Pope. Wallin told Clifford that she had merely commented that Brown needed an answering machine or a secretary. She admitted telling Pope not to say anything about what she had said and that Pope had answered ''don't worry.'' Clifford asked Wallin to sign the warning and she refused. Clifford handed Wallin her final check and told her that she was discharged.

Clifford testified that he terminated Wallin because this was the third incident of employee harassment. In reaching this decision, Clifford relied on the warnings of March 26, 31, and April 1, 1992. The March 26 and 31 warnings involve the same incident and are duplicative. Clifford did not rely on the warning of February 28 because he had not shown the warning to Wallin. No other employee has been fired under the antiharassment policy, however, one employee was fired for harassing coworkers before the policy went into effect. At the time of the discharge in June, the union organizing campaign had ended.

Wallin's employment history revealed that she was highly regarded as a worker. However, she had difficulties in the past in working with coworkers. Her employee evaluation in 1988 included a comment that she needed to work on her relationship with a fellow employee. Her 1989 evaluation indicated a problem ''in her interaction with others.'' Wallin's 1990 evaluation praised her work effort but stated that she needed to improve her interaction with others. Her 1991 evaluation indicated that Wallin had improved and was no longer ''tormenting [teasing] fellow employees.'' During the relevant time period, Wallin was evaluated by Brown on March 25, 1992. Wallin received a satisfactory evaluation. However, Brown commented that Wallin didn't ''seem to understand that some people find her strong personality and openness intimidating.'' Wallin wrote on the evaluation ''I may say difficulty with other (sic) but I feel I cooperate. I feel I can do what I am told (asked).'' The March 1992 evaluation was the only evaluation under Brown's and Clifford's supervision. The earlier evaluations took place prior to their employment with Respondent.

B. *Contentions of the Parties*

The General Counsel contends that the Forum was a labor organization within the meaning of the Act. It further contends that Respondent violated Section 8(a)(2) and (1) of the Act by dominating, interfering with, and supporting the Forum. General Counsel argues that Respondent violated Section 8(a)(3) and (1) by terminating the employment of Wallin because of her unwanted activities on behalf of the Union. Finally, the General Counsel argues that Respondent unlawfully interrogated Wallin, prohibited solicitation on behalf of the Union, and solicited employee grievances in order to discourage union activities. Respondent argues that Wallin was discharged for violations of company policy after repeated warnings. It further argues that it did not interfere with or dominate the employee forum committee.

Analysis and Conclusions

A. *Domination of and Assistance to the Forum*

Section 2(5) of the Act defines a labor organization as follows:

> any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

In *NLRB v. Cabot Carbon Co*., 360 U.S. 203 (1959), the Supreme Court held that an employee committee that discussed with management various subjects pertaining to working conditions, wages, or grievances was a labor organization within the meaning of Section 2(5) even though the committee had no membership requirements, collected no dues, had no funds, and had never attempted to negotiate a collective-bargaining agreement. Accordingly, the Board has broadly construed the definition of labor organization under Section 2(5). *St. Anthony's Hospital*, 292 NLRB 1304 (1989).

In *Electromation, Inc.*, 309 NLRB 990 (1992), the Board indicated that the definitional elements of a Section 2(5) organization require (1) employee participation, (2) a purpose to deal with employers, (3) concerning itself with conditions of employment or other statutory subjects, and (4) if an ''employer representation committee or plan'' is involved, evidence that the committee is in some way representing the employees.

There is no dispute that employees participated in voting for committee members and that employees served on the committee. The express purpose of the Forum was to provide

a fair and orderly procedure for airing employee grievances involving wages, hours, and terms and conditions of employment. The evidence establishes that the committee dealt with the Employer regarding employee grievances, a term and condition of employment. Finally, the evidence establishes that the forum committee has obtained affirmative action on some of the grievances it has presented to management on behalf of employees. I find that the forum committee was a labor organization whose purpose included dealing with Respondent regarding working conditions within the meaning of Section 2(5) of the Act.

Respondent suggested and encouraged the formation of the Forum and implied a willingness to deal with it concerning grievances. Respondent conducted the election and drafted the original bylaws of the Forum. Respondent agreed to the procedures established by the committee for filing grievances. *Wheelco Co.*, 260 NLRB 867 (1982); *Eastern Industries*, 217 NLRB 712 (1975); *Arrow Specialties*, 177 NLRB 306 (1969). Furthermore, the Forum was established immediately after Clifford learned that Wallin was attempting to organize the employees and that one of her reasons was that employees had no means to adjust grievances against their supervisors. *Rideout Memorial Hospital*, 227 NLRB 1338, 1342 (1977).

Although Respondent interfered with the formation and administration of the Forum ''it does not automatically follow'' that Respondent unlawfully dominated the committee in violation of Section 8(a)(2) of the Act. *Texas Bus Lines*, 277 NLRB 626 (1985); *Spiegel Trucking Co.*, 225 NLRB 178, 179 (1976). General Counsel failed to prove that Respondent controlled and supported the committee and its membership.

The committee rewrote and simplified the rules and procedures suggested by Respondent. After two meetings in Clifford's office, the forum committee held meetings at times and places of its own choosing. Clifford instructed the committee that there should be no participation by administration or management. The rules and procedures disclaim any management involvement in the committee. Although the impetus behind the formation of the Forum emanated from Respondent, there is insufficient evidence that the organization has no effective existence independent from Respondent or that Respondent controls the structure of the organization. *Electromation*, supra, citing *Duquesne University*, 198 NLRB 891, 892–893 (1972). Accordingly, I find that Respondent unlawfully interfered with the formation of the Forum but did not unlawfully dominate the Forum.

B. *The Warnings and Discharge*

In *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), the Board announced the following causation test in all cases alleging violations of Section 8(a)(3) or violations of Section 8(a)(1) turning on employer motivation. First, the General Counsel must make a prima facie showing sufficient to support the inference that protected conduct was a ''motivating factor'' in the employer's decision. Upon such a showing, the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct. The United States Supreme Court approved and adopted the Board's *Wright Line* test in *NLRB v. Transportation Management Corp.*, 462 U.S. 393, 399–403 (1983).

I find that General Counsel has made a prima facie showing that Respondent was motivated by Wallin's union activities in discharging the employee. First, upon learning that Wallin had been soliciting union authorization cards, Clifford interrogated Wallin about her union activities. Clifford banned union solicitations while Wallin was on the timeclock and solicited grievances with the implication that Respondent would remedy grievances to avoid unionization. In Wallin's 5 previous years at working for Respondent she received only one warning. However, she received three warnings after her union activities came to light.

The burden shifts to Respondent to establish that the same action would have taken place in the absence of Wallin's union and protected concerted activities. For the following reasons, I find that Respondent has shown that the warnings and discharge would have occurred in the absence of union activity. As mentioned earlier, Wallin had a previous history of not interacting well with other employees. Although Wallin had only one warning in her first 5 years with Respondent, she received two admittedly lawful warnings from Brown in February, one of which concerned the treatment of a fellow employee. Thereafter, three employees complained about her conduct. When Clifford first questioned Wallin about her union activities, he did so in response to a complaint by an employee to her supervisor. Another employee complained and asked Clifford to intervene when Wallin allegedly harassed her about Wallin's sexual harassment charge. Finally, the last event occurred when an elderly employee complained about Wallin's conduct. None of these complaints were solicited by management. They were all initiated by fellow workers.

Wallin's unwanted conduct was consistent with her past employment history. There is no evidence that Brown or Clifford condoned such conduct. The discharge was consistent with a January discharge of an employee for abusive conduct towards other employees. Finally, at the time of the discharge, the union campaign had fizzled and the Union was no longer a problem for Respondent. The record as a whole convinces me that the discharge would have occurred as it did whether or not Wallin engaged in union activities.

C. *The Independent 8(a)(1) Violations*

Interrogation of employees is not unlawful per se. In determining whether or not an interrogation violates Section 8(a)(1) of the Act, the Board looks at whether under all the circumstances the interrogation reasonably tends to interfere with, restrain, or coerce employees in the exercise of their Section 7 rights. *Rossmore House*, 269 NLRB 1176 (1984); *Sunnyvale Medical Clinic*, 277 NLRB 1217 (1985).

Here, I find that the interrogation tended to interfere with and restrain Wallin in her organizing activities. First, the interrogation took place in the office of Respondent's highest ranking administrative official. The interrogation took place during a disciplinary meeting at which Clifford expressed an opinion that it was stupid to bring in a union. Third, Clifford threatened to discharge Wallin if she solicited for the Union while on the timeclock. Fourth, Clifford interrogated Wallin on a second occasion at which he suggested the Forum as an alternative to unionization. Under these circumstances,

Wallin would reasonably conclude that union activities would lead to adverse action by Clifford and Respondent.

The evidence reveals that Clifford told Wallin that she could not solicit union authorization cards while she was ''on the clock'' or while he was ''paying her.'' Such a ban is ambiguous and could be reasonably construed as including breaktime and lunchtimes—both traditional nonworking times. See, e.g., *Our Way, Inc.*, 268 NLRB 394, 395 (1983); *National Semiconductor Corp.*, 272 NLRB 973 fn. 1 (1984). Clifford's edict that Wallin could not harass any employee at any time on Respondent's property was also ambiguous in that no distinction was made between soliciting for the union and harassment. Such ambiguities must be resolved against Respondent. Accordingly, I find that Respondent violated Section 8(a)(1) of the Act.

Clifford interrogated Wallin as to why she thought the employees needed a union. After learning that Wallin was concerned about treatment by supervisors and the lack of recourse against supervisors, Clifford suggested an employee grievance committee. He further offered Wallin the opportunity of chairing the committee. When Wallin declined the invitation, Clifford involved her in the election of committee members. The timing of Clifford's instigation of the committee and his offers to Wallin suggest that Clifford was soliciting grievances and implying that grievances would be remedied in order to avoid unionization. *Electric Hose & Rubber Co.*, 267 NLRB 488 (1983).

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce and in a business affecting commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union and the Forum are labor organizations within the meaning of Section 2(5) of the Act.

3. By unlawfully interrogating employees, announcing an overly broad no-solicitation rule, and soliciting grievances and impliedly promising to remedy them, Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

4. By interfering with the formation and administration of the Employee Forum Committee, Respondent violated Section 8(a)(2) and (1) of the Act.

5. The above unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

6. Respondent has not otherwise violated the Act.

THE REMEDY

Having found that Respondent engaged in unfair labor practices, I shall recommend that it be ordered to cease and desist therefrom and that it take certain affirmative action to effectuate the policies of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[2]

[2] All motions inconsistent with this recommended Order are denied. If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

ORDER

The Respondent, Magan Medical Clinic, Inc., Covina, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Interrogating employees about their union beliefs or activities.

(b) Telling employees that they may not solicit for a union during nonworking time such as breaks and lunch.

(c) Soliciting employee grievances and implying that they would be remedied in order to avoid unionization.

(d) Interfering with the formation of, assisting, or otherwise interfering with the operation and administration of the Employee Forum Committee.

(e) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Withdraw all recognition from the Employee Forum Committee unless and until certified by the National Labor Relations Board as the exclusive collective-bargaining representative of the Respondent's employees.

(b) Post at its Covina, California facilities copies of the attached notice marked ''Appendix.''[3] Copies of the notice, on forms provided by the Regional Director for Region 21, after being signed by Respondent's authorized representative, shall be posted for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of the Order what steps Respondent has taken to comply.

[3] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize

To form, join, or assist any union

To bargain collectively through representatives of their own choice

To act together for other mutual aid or protection

To choose not to engage in any of these protected concerted activities.

WE WILL NOT interfere with the formation of, assist, or otherwise interfere with the operation and administration of the Employee Forum Committee.

WE WILL NOT tell employees that they may not solicit for a union during nonworking time.

WE WILL NOT solicit employee grievances and imply favorable treatment to avoid unionization.

WE WILL NOT interrogate employees about their union sympathies and beliefs.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL withdraw all recognition from the Employee Forum Committee unless and until certified by the National Labor Relations Board as the exclusive collective-bargaining representative of our employees.

MAGAN MEDICAL CLINIC, INC.